

AGREEMENT

WHEREAS, Title 23, United States Code, section 131, provides that it is in the public interest to encourage and assist the States to control the use of and to improve areas adjacent to the National System of Interstate and Defense Highways by controlling the erection and maintenance of outdoor advertising signs, displays, and devices adjacent to that system, and further provides that the Secretary of Commerce is authorized to enter into agreements with State highway departments to carry out this national policy, and further that if such agreement be entered into under the terms of said section 131, that the federal share payable on the Interstate System within that State shall be increased one-half of one per centum of the total cost thereof, but under the terms and conditions set forth in said section 131; and,

WHEREAS, the State of Nebraska has enacted a statute, L.B. 313, authorizing the Nebraska Department of Roads to control advertising within the area adjacent to the National System of Interstate and Defense Highways under the conditions necessary to qualify Nebraska for and to accept the provisions of Title 23, United States Code, section 131, and further authorizing the Department of Roads, for and in the name of the State of Nebraska to enter into an agreement with the Secretary of Commerce for regulation and control of advertising

signs, displays and devices upon areas adjacent to the said Interstate system under the terms of said L.B. 313, but within the minimum requirements of the act, as hereinafter defined; and

WHEREAS, there has been promulgated by the United States Secretary of Commerce pursuant to said act, as hereinafter defined, National Standards for Regulation by States of outdoor advertising signs, displays and devices adjacent to the National System of Interstate and Defense Highways, that said national standards were published in the Federal Register of November 13, 1958, (23 F.R. 8793) and amendments thereto were published in the Federal Register on January 12, 1960, (25 F.R. 218) and March 26, 1960, (25 F.R. 2575);

NOW THEREFORE, it is hereby agreed between the United States Secretary of Commerce, acting by and through the Federal Highway Administrator, and the Department of Roads of the State of Nebraska, as follows:

1. Definitions

(a) The term "act" means section 131 of Title 23, United States Code as amended by section 10 of the Federal Aid Highway Act of 1959 (P.L. 86-342, 72 Stat. 94).

(b) The term "national standards" means the standards promulgated by the United States Secretary of Commerce and above described, said national standards are hereby made a part of this agreement by reference.

(c) The term "Interstate System" means the National System of Interstate and Defense Highways.

(d) The term "adjacent areas" refers to those areas within 660 feet of the edge of the right of way of the Interstate System, determined in accordance with the National standards.

(e) The term "excluded areas" refers to those adjacent areas which traverse commercial or industrial zones within the boundaries of incorporated municipalities as such boundaries existed on September 21, 1959, wherein the use of real property adjacent to the Interstate system is subject to municipal regulation or control, or which traverse other areas where the land use, as of September 21, 1959, was clearly established by State law as industrial or commercial.

(f) The term "applicable areas" means the adjacent areas exclusive of excluded areas, and which are subject to the terms of this agreement.

(g) The term "L.B. 313" is Legislative Bill 313 of the Seventy-second session of the Nebraska Legislature which was passed with emergency clause by the Legislature on the 16th day of May, 1961, and approved by the Governor on the 18th day of May, 1961, and became effective from and after said approval.

(h) The term "Administrator" refers to the Federal Highway Administrator, and who has been empowered to act for and in behalf of the United States Secretary of Commerce.

(i) The term "Department" refers to the Department of Roads of the State of Nebraska, which is empowered to enter into this agreement under the terms of L.B. 313, for and in the name of the State of Nebraska.

2. Scope of Agreement

Except as otherwise expressly set forth herein, this agreement shall apply to the applicable areas within the State of Nebraska

where a portion of the Interstate System is constructed upon any part of a right of way, the entire width of which has been acquired subsequent to July 1, 1956.

3. Department's Obligation

The Department hereby agrees that, in accordance with the terms of this agreement, it will control or cause to be controlled the erection and maintenance of outdoor advertising signs, displays and devices in applicable areas within such State consistent with the Act and the national standards.

4. Plan for Controlling Adjacent Areas

The Department further agrees that its control of applicable areas shall, as a minimum, be in conformity with the Act, and the national standards, and shall be carried out pursuant to the Plan, referred to in paragraph 6, hereof.

5. Exceeding of Standards

Nothing contained herein shall prohibit the Department from exercising control of outdoor advertising signs to a greater degree than that required or contemplated by the national standards and the Act.

6. Plan for Controlling Areas Adjacent to Interstate Highways

The Department has presented or will present a "Plan for Controlling Areas Adjacent to Interstate Highways." The plan shall consist of a narrative statement setting forth the methods and

procedures the Department will follow in controlling outdoor advertising, and shall include a set of maps, color coded, to show the segments of the Interstate System considered eligible for payment of an increased Federal share of the cost of construction and the segments which are not considered eligible. The Department shall promptly submit to the Administrator additions to or amendments of the Plan when the selection, designation, or modification of Interstate highway routes or other reasons make such action necessary or desirable. The Department may from time to time submit to the Administrator any proposals for amendment of the Plan. If approved by the Administrator, such additions or amendments shall become a part of the plan.

7. Increase of Share

The Federal share payable on account of any project on the Interstate System provided for by funds authorized under section 108 of the Federal-Aid Highway Act of 1956, as amended, to which the Act, the national policy, and this Agreement apply, shall be increased by one-half of one per centum of the total cost thereof, if and when funds are appropriated and made available for such purposes. However, no additional cost that may be incurred in carrying out this Agreement, no cost incurred in connection with any segment of highway excluded from the application of the national standards, and no cost of any project not payable from funds authorized by section 108 of the Federal-Aid Highway Act of 1956, as amended, shall be included in such total for purposes of determining the amount of such increase.

8. The Obligation of the Federal Government

Notwithstanding any other provisions of this Agreement, the United States shall not be required to make any payments hereunder unless and until Federal funds are duly appropriated in amounts sufficient to enable the Administrator to make payments as provided in this Agreement.

9. Payment Upon Evidence of Compliance

Payment of the one-half of one percent increase in the Federal share will be made by the Administrator from funds appropriated and available for such purpose with respect to any project upon the submission by the Department to the Administrator of a satisfactory showing that the Department has fulfilled its obligations under this Agreement in connection with such project, that such project is completed, and that the Department is continuing to carry out its obligations hereunder with reference to all other highways on the Interstate System.

Advertising signs, displays or devices shall be removed, or caused to be removed by the Department as follows:

(a) No outdoor advertising sign, display or device which is inconsistent with the Act or the national standards shall be allowed to remain after June 30, 1964, in areas adjacent to any segment of the Interstate System which, prior to July 1, 1961, either has been completed to the geometric and design standards adopted for that system, or is under contract for completion to such standards.

(b) No outdoor advertising sign, display or device which is inconsistent with the Act or the national standards shall be allowed

to remain in areas adjacent to any segment of the Interstate System after the date upon which the Department has accepted, as completed, a contract awarded on or after July 1, 1961, for the completion of such segment to the geometric and design standards approved for the Interstate System.

No part of the increased Federal share payable under the Act shall be paid to the Department on account of any project until outdoor advertising in areas adjacent to that project complies completely with the national standards.

10. Failure to Perform Obligations

If, after receiving payment of any portion of the aforementioned increase of one-half of one percent in the Federal share of the cost of any project, the Department should fail to perform its obligations or continue the same under this Agreement in connection with any project, the Department hereby agrees that, if, without good cause shown to the satisfaction of the Administrator, it fails to perform such obligations within 30 days after the date of mailing by the Administrator of written notice thereof, it will return to the Federal Government all payments heretofore made under this Agreement. In the event the Department does not return all of such payments within a reasonable time, the Department hereby authorizes the Administrator to withhold from the Department an amount equal to such payments out of any Federal-aid highways funds then due or that may thereafter become due to the Department.

Notwithstanding any other provision in this section, if the Department fails to perform any obligation of this Agreement and such failure is caused by a declaration of a court of competent jurisdiction or by a ruling of the Attorney General of Nebraska that the Department or the State of Nebraska is without legal authority to perform said obligation under this contract, then the Department will not be required to return to the Federal Government payments heretofore made under this Agreement unless and until sixty days have elapsed after the adjournment of the next regular Nebraska legislative session following such declaration or ruling.

11. Repayment Necessitate by Change in Zoning Within
Incorporated Municipalities

If, after receiving payment of any portion of the aforementioned increase of one-half of one percent, which payment is due to the control of advertising by the Department in an area within the limits of an incorporated municipality as those limits existed in September 21, 1959, the status of any portion of said areas is changed to a commercial or industrial zone, the national policy on advertising control shall no longer apply to the area or portion of area the status of which is changed, and the Department hereby agrees that it will repay so much of any bonus payment made on account of the area to which the national policy no longer applies. In lieu of repayment, the Department hereby authorizes the Administrator to withhold from the Department an amount equal to such payments out of any Federal-aid highway funds then due or that may thereafter become due to the Department.

12. Effective Date

This agreement shall become effective when executed only if it be signed on behalf of both the Department and the Administrator prior to July 1, 1961.

In witness Whereof the Department has caused this Agreement to be duly executed in its behalf, and the Administrator has likewise caused the same to be duly executed in his behalf, as of the dates specified below.

June 15, 1961 :

DEPARTMENT OF ROADS FOR AND IN
THE NAME OF THE STATE OF NEBRASKA

APPROVED:

Frank B. Morrison

By

John W. Hassack
State Engineer

June 19, 1961 :

U. S. DEPARTMENT OF COMMERCE
Bureau of Public Roads

By

[Signature]

Federal Highway Administrator